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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ROMULO SERRANO, on behalf of himself  
and others similarly situated,

Plaintiffs

-against-

CONCOURSE SUDS, LLC d/b/a Candlewood  
Auto Mall

Defendant.

08 CV 02782 (TPG)  
ECF Case

**ANSWER**

Defendant Concourse Suds, LLC (referred to herein as “Concourse” or “Defendant”), as and for its answer to the Complaint, dated March 17, 2008 (the “Complaint”) of plaintiff Romulo Serrano (referred to herein as “Serrano” or “Plaintiff”), alleges as follows:

**INTRODUCTION**

1. Denies the allegations contained in paragraph “1” of the Complaint.
2. Denies the allegations contained in paragraph “2” of the Complaint.

**JURISDICTION AND VENUE**

3. Denies the allegations contained in paragraph “3” of the Complaint.
4. Denies the allegations contained in paragraph “4” of the Complaint.

**PARTIES**

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “5” of the Complaint.

6. Admits the allegations contained in paragraph “6” of the Complaint.

7. Denies the allegations contained in paragraph “7” of the Complaint except admits Plaintiff was employed by Defendant until January 2008.

8. No response is required to the allegations contained in paragraph “8” of the Complaint, as the allegations set forth a purported statement of law. To the extent a response is required, Defendant denies the allegations.

9. Denies the allegations contained in paragraph “9” of the Complaint.

10. Denies the allegations contained in paragraph “10” of the Complaint.

11. Denies the allegations contained in paragraph “11” of the Complaint.

12. Denies the allegations contained in paragraph “12” of the Complaint.

13. Denies the allegations contained in paragraph “13” of the Complaint.

#### **STATEMENT OF FACTS**

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “14” of the Complaint.

15. Denies the allegations contained in paragraph “15” of the Complaint.

16. Denies the allegations contained in paragraph “16” of the Complaint.

17. Denies the allegations contained in paragraph “17” of the Complaint.

18. Denies the allegations contained in paragraph “18” of the Complaint.

19. Denies the allegations contained in paragraph “19” of the Complaint.

20. Denies the allegations contained in paragraph “20” of the Complaint.

21. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “21” of the Complaint.

**STATEMENT OF CLAIM**

**COUNT I**

**VIOLATION OF THE FAIR LABOR STANDARDS ACT**

22. Concourse repeats and realleges its answers to the paragraphs of the Complaint referenced in paragraph “22” of the Complaint.

23. No response is required to the allegations contained in paragraph “23” of the Complaint, as the allegations set forth a purported statement of law. To the extent a response is required, Defendant denies the allegations.

24. No response is required to the allegations contained in paragraph “24” of the Complaint, as the allegations set forth a purported statement of law. To the extent a response is required, Defendant denies the allegations.

25. Denies the allegations contained in paragraph “25” of the Complaint.

26. Denies the allegations contained in paragraph “26” of the Complaint.

27. Denies the allegations contained in paragraph “27” of the Complaint.

28. Denies the allegations contained in paragraph “28” of the Complaint.

29. Denies the allegations contained in paragraph “29” of the Complaint.

30. Denies the allegations contained in paragraph “30” of the Complaint.

31. Denies the allegations contained in paragraph “31” of the Complaint.

32. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “32” of the Complaint.

33. Denies the allegations contained in paragraph “33” of the Complaint.

34. Denies the allegations contained in paragraph “34” of the Complaint.

35. Denies the allegations contained in paragraph “35” of the Complaint.

36. Denies the allegations contained in paragraph “36” of the Complaint.

37. Denies the allegations contained in paragraph “37” of the Complaint.

38. Denies the allegations contained in paragraph “38” of the Complaint.

## **COUNT II**

### **VIOLATION OF THE NEW YORK LABOR LAW**

39. Concourse repeats and realleges its answers to the paragraphs of the Complaint referenced in paragraph “39” of the Complaint.

40. No response is required to the allegations contained in paragraph “40” of the Complaint, as the allegations set forth a purported statement of law. To the extent a response is required, Defendant denies the allegations.

41. Denies the allegations contained in paragraph “41” of the Complaint.

42. Denies the allegations contained in paragraph “42” of the Complaint.

43. Denies the allegations contained in paragraph “43” of the Complaint.

44. Denies the allegations contained in paragraph “44” of the Complaint.

### **AS AND FOR A FIRST DEFENSE**

45. Plaintiff has failed to state a claim upon which relief can be granted.

### **AS AND FOR A SECOND DEFENSE**

46. The damages suffered by Plaintiff, if any, were the result of his own conduct.

### **AS AND FOR A THIRD DEFENSE**

47. Plaintiff’s claims are barred by the doctrine of unclean hands.

### **AS AND FOR A FOURTH DEFENSE**

48. Plaintiff’s claims are barred by the doctrine of waiver and/or estoppel.

**AS AND FOR A FIFTH DEFENSE**

49. Plaintiff is not a proper class representative.

**AS AND FOR A SIXTH DEFENSE**

50. Plaintiff is not a member of a proper class.

**AS AND FOR A SEVENTH DEFENSE**

50. Plaintiff was a manager and/or supervisor during the relevant times referenced in the Complaint.

**AS AND FOR AN EIGHTH DEFENSE**

51. Plaintiff's claims are barred, in whole or in part, by the applicable Statutes of Limitations.

**AS AND FOR A NINTH DEFENSE**

52. If Plaintiff suffered any damages, which Defendant denies, they were not caused by Defendant, but rather by the actions of others.

**AS AND FOR A TENTH DEFENSE**

53. If Plaintiff suffered any damages, which Defendant denies, Plaintiff failed to mitigate them.

WHEREFORE, defendant, Concourse Suds, LLC respectfully requests judgment as follows:

- A. Dismissing Plaintiff's Complaint in its entirety; and
- B. Granting such other and further relief as this Court deems just and proper.

Dated: New York, New York  
June 19, 2008

**BARTON BARTON & PLOTKIN LLP**

By: /s/ Mathew E. Hoffman  
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